



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,129	09/16/2003	Allen Fox	08226/1203097-US1	7169
38880	7590	12/12/2007	EXAMINER	
Yahoo! Inc. c/o DARBY & DARBY P.C. P.O. BOX 770 Church Street Station NEW YORK, NY 10008-0770			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	
			MAIL DATE	DELIVERY MODE
			12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,129

Applicant(s)

FOX ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to Applicant's amendment/RCE filed on 10/31/2007.
2. Claims 1-84 remain pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-82 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Allan et al (U.S. Pat. No. 6,526,456) and Bass et al (U.S Pat. No. 6,744,446) and Hornbuckle (U.S. Pat. No. 5,613,089) **in view of Hastings et al (U.S. pat. No. 6,584,450, NETFLIX).**

As per claims 1, and 4-84 Allan substantially discloses a software product that can be freely distributed while limiting its use to authorized subscribers, the method comprising:

a set of users including identify one or more software products that are rented by users in the set (see., abstract, col 1, lines 4-8, col 4, lines 63-67, col 5, lines 1-15);

Authorizing a user in the set to access a software product through the computer network based on whether the software product is identified as a rented software product (see., abstract, col 1, lines 4-8, col 4, lines 63-67, col 5, lines 1-15).

Allan fails to explicitly disclose the step of assigning a virtual container (s) to users or quantity of virtual containers. However, Bass discloses a method/apparatus for displaying network (network or online) information to a user connected to a network, and enable a user to configure the network by assigning virtual containers (see., abstract, col 2, lines and 67 and 68, col 3, lines 1-8). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the software rental service of Allan by including the limitation detailed above as taught by Bass because this would improve software rental product.

Allan and Bass fail explicitly to disclose the claimed limitation wherein said the collection identifying a rental package of a predefined number of the one or more software products. Hornbuckle discloses a system/method for renting computer game software. Each game software package for each different game available for rental is assigned an 8-character package identifier code which is unique to the particular game. Each software package is encrypted with a package key, the package key being the unique package identifier associated with each different game available (see., abstract, col 16, lines 24-62). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Allan and Bass by including the limitation detailed above as taught by Hornbuckle because this would

prevent unauthorized use, copying, vandalism and modification of downloadable data and programs during or after transmission to the target computer.

In regard to Applicant's newly added limitations wherein said at least one virtual container in the collection is assigned a virtual container priority level (priority level or pre-select category) corresponding to a variable software product access level, and wherein at least one virtual container in the collection provides a different rental period duration (time limit to return the movie or CD or software), and wherein at least one virtual container in the collection permits selectively removing a software product and adding a new software product before the end of the rental period.

Bass does disclose a virtual container, but he does not explicitly detailed that his virtual container comprising of: a priority level, a different rental period duration, and a permission to add or remove a new software product. However, it is the Examiner's principal position that online rental or online software distribution such as (Hastings (NETFLIX) or BLOCKBUSTER allows users to pre-select movie or CD with priority level (i.e. preferred movie or pre-selected category) and time duration attach to their selection. Moreover, NETFLIX or BLOCKBUSTER also allows users to add or remove a pre-selected item (or new software) see., Hastings, Netflix, abstract, col 1, lines 56-67, col 2, lines 1-12. Accordingly, it would have been obvious to one of ordinary skill in the at the time the invention was made to modify Bass to include such details choices made available to a user as noted in the systems of Hastings (NETFLIX) or BLOCKBUSTER with the

motivation of allowing a user to make real world choices as if they were in a physical movie/video/CD rental location.

As per claims 2 and 3, Allan discloses the claimed method of identifying the rented software product in the virtual container for a rental period (see., col 9, lines 24-37).

RESPONSE TO ARGUMENTS

5. Applicant's arguments with respect to claims filed on 02/02/2007 have been fully considered but they are moot in view of new ground (s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patents and hoteling.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/667,129
Art Unit: 3621

Page 6

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 03, 2007


PIERRE EDDY ELISCA
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600